

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jeffrey Tsui	Team: Squad #15	CCRB Case #: 201910825	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 12/03/2019 6:27 PM, Tuesday, 12/03/2019 7:00 PM	Location of Incident: 32nd Precinct stationhouse § 87(2)(b) NY, New York 10027	Precinct: 32	18 Mo. SOL 6/3/2021	EO SOL 1/18/2022	
Date/Time CV Reported Fri, 12/06/2019 9:56 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 12/18/2019 11:29 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Carlos Castillo	19775	943064	032 PCT
2. POM Michael Feliz	14674	966050	032 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Peter Montalbano	19486	953129	032 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Michael Feliz	Abuse: At § 87(2)(b) in Manhattan, Police Officer Michael Feliz seized § 87(2)(b)'s property.	§ 87(2)(b)
B.POM Carlos Castillo	Abuse: At the 32nd Precinct stationhouse, Police Officer Carlos Castillo refused to provide his shield number to § 87(2)(b)	§ 87(2)(b)

Case Summary

On December 6, 2019, § 87(2)(b) filed this complaint with IAB generating § 87(2)(g). On December 18, 2020 this complaint was received by the CCRB.

On December 3, 2020, at approximately 6:27 PM, Police Officer Michael Feliz and Police Officer Peter Montalbano of the 32 Precinct arrived at § 87(2)(b) in Manhattan. PO Montalbano and PO Feliz entered the building to investigate a dispute between § 87(2)(b) and § 87(2)(b), § 87(2)(b) and § 87(2)(b). § 87(2)(b) held the keys to the building and claimed to be § 87(2)(b)'s vice president. § 87(2)(b) and § 87(2)(b) disputed § 87(2)(b)'s ownership of the keys to the building and right to the premises. PO Feliz took the keys from § 87(2)(b)'s hand and gave it to § 87(2)(b) (**Allegation A: Abuse of Authority – Seizure of Property**, § 87(2)(g)). Later that night, § 87(2)(b) arrived at the 32 Precinct stationhouse to file a complaint against PO Feliz and PO Montalbano. Police Officer Carlos Castillo met § 87(2)(b) at the front entrance of the stationhouse. § 87(2)(b) asked PO Castillo for his shield number. PO Castillo allegedly did not provide his shield number to § 87(2)(b) (**Allegation B: Abuse of Authority – Refusal to provide shield number**, § 87(2)(g)).

Body camera footage of PO Feliz and PO Montalbano were obtained by the investigation and attached in IA#132 and IA#133 (Board Review 12-13). The body worn camera video for PO Feliz was summarized in IA#121 and body worn camera video for PO Montalbano was summarized in IA#122.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Michael Feliz seized § 87(2)(b)'s property.

It is undisputed that on December 3, 2020, PO Feliz and PO Montalbano responded to § 87(2)(b). The 32 Precinct Resource Recap Log for Tour 3 on December 3, 2020 (Board Review 9) showed PO Feliz and PO Montalbano arrived at the incident location at 6:27 PM for a trespassing complaint.

PO Feliz and PO Montalbano arrived and instructed § 87(2)(b) to exit the bathroom. § 87(2)(b) complied. § 87(2)(b) said the PO Feliz and PO Montalbano did not ask for § 87(2)(b)'s name, his side of the story, or documentation that showed that he was an official of the organization. PO Feliz took the keys of the building from § 87(2)(b)'s hand and handed them to § 87(2)(b).

§ 87(2)(b) provided a telephone statement on December 19, 2020. He was interviewed at the CCRB on December 23, 2020. During § 87(2)(b)'s CCRB interview (Board Review 1), § 87(2)(b) stated he possessed the two keys to the two doors of the building and claimed to be the organization's vice president. On December 3, 2020, at an unknown time in the morning, he arrived at § 87(2)(b) in Manhattan with an inspector from the NYC Department of Building. § 87(2)(b) and the inspector entered the basement and found that the boiler room had been barricaded. § 87(2)(b) called 9-1-1. It was determined that someone had barricaded the boiler room from the inside and left the scene through a ventilation window. § 87(2)(b) told the CCRB that members of § 87(2)(b) had filed a police report with false documents that accused him of barricading the building's boiler room. § 87(2)(b) alleged that members of § 87(2)(b) were conspiring against him. § 87(2)(b).

returned to the building at approximately 4:00 PM. § 87(2)(b) was met by § 87(2)(b) and § 87(2)(b). § 87(2)(b) entered the building to use the bathroom. § 87(2)(b) called 9-1-1 on § 87(2)(b) for being on the premises of § 87(2)(b).

PO Feliz testified at the CCRB (Board Review 6) that the exterior walls of § 87(2)(b) had posters that said § 87(2)(b) was not allowed on premises. The posters were not issued by the NYPD. PO Feliz was informed by § 87(2)(b) and § 87(2)(b) that § 87(2)(b) had no right to be in the building. PO Feliz was told by the Association members present that § 87(2)(b) possessed the keys to the building. PO Feliz was informed by the members that § 87(2)(b) had meddled with the boiler room. PO Feliz felt that there was a safety concern when § 87(2)(b) meddled with the boiler room. PO Feliz determined that § 87(2)(b) should not have the keys to the building.

PO Feliz's BWC (Board Review 12) captured himself and PO Montalbano being led into the building by § 87(2)(b) and § 87(2)(b). PO Feliz held a poster in his hand that read "Warning – No unauthorized entry" with § 87(2)(b)'s name on it. PO Montalbano instructed § 87(2)(b) to exit the bathroom. § 87(2)(b) complied. PO Montalbano instructed § 87(2)(b) to give his set of keys to the building to PO Feliz. § 87(2)(b) opened his grip on the keys and PO Feliz took § 87(2)(b)'s keys. PO Feliz called the director of § 87(2)(b) on his cellphone. PO Feliz instructed the director of the organization to text § 87(2)(b) the corresponding documents that showed that § 87(2)(b) was not a member of § 87(2)(b) at the time of the incident. PO Feliz asked the director if § 87(2)(b) had any "mental problems". § 87(2)(b) interrupted PO Feliz and said that § 87(2)(b) did have mental problems (Board Review 12). § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

PO Montalbano's BWC (Board Review 13) captured § 87(2)(b) showing PO Montalbano a pamphlet that stated that he was the vice president of the organization. PO Montalbano told § 87(2)(b) that he needed to see an official document. Additional unidentified individuals were captured entering the building and informing PO Montalbano that § 87(2)(b) was the former vice president of § 87(2)(b).

New York State Penal Law 140.05 (Board Review 24) states that a person is guilty of trespass when they knowingly enter or remain unlawfully in or upon premises. The determination of whether one enters and remains unlawfully hinges on the question of whether the person is licensed and privileged to be on the premises.

§ 87(2)(g)

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USCS Const. Amend. 14 (Board Review 26) states that "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

McClendon v. Rosetti. (Board Review 27) states that “ persons from whose possession money or property, other than contraband, has been taken or obtained, though such money or property was not related to any criminal proceeding, or, if it was so related, such criminal proceedings had been terminated, or if the money or property had been needed as evidence in a criminal proceeding, it was no longer needed for that purpose, as violative of the due process clauses of the fifth and fourteenth amendments.”

Patrol Guide Procedure No. 214-13 (Board Review 23) states that the role police officers are to take in situations related to an ongoing civil dispute. The only role police officers are to have in such circumstances is the preserve the peace and to prevent the commission of crime. In the case of this complaint, where there is a complicated ongoing civil dispute, the Patrol Guide states that police officers are not to take enforcement action. The responsibility of executing a warrant of eviction is the sole responsibility of city marshal/sheriff. Patrol Guide Procedure No. 214-13 states that even in situations where police officers are requested to assist in the execution of an eviction warrant or other civil process, police officers are to respond to the location, examine identification of city marshal/sheriff and if eviction is involved, examine warrant.

§ 87(2)(g)
[REDACTED]

Allegation (B) Abuse of Authority: Police Officer Carlos Castillo refused to provide his shield number to § 87(2)(b)

It is undisputed that on December 3, 2020, § 87(2)(b) spoke with PO Castillo. § 87(2)(b) traveled to the 32nd Precinct stationhouse with the intention of filing a complaint against PO Feliz and PO Montalbano

During § 87(2)(b)'s CCRB interview on December 23, 2020, § 87(2)(b) stated that spoke with Police Officer Carlos Castillo at the entrance of the stationhouse. § 87(2)(b) asked (Board Review 1) PO Castillo, “Sir, I would like your badge number and the badge numbers of the other two officers.” PO Castillo told § 87(2)(b) “I cannot give you that information.” § 87(2)(b) asked PO Castillo for PO Feliz and PO Montalbano’s shield numbers again. PO Castillo repeated his answer, “I cannot give you that information.” § 87(2)(b) asked PO Castillo again for the shield number of PO Castillo, PO Feliz and PO Montalbano. PO Castillo did not provide the shield number of himself or that of PO Feliz and PO Montalbano. PO Castillo did not give a reason to § 87(2)(b) as to why he could not provide his shield number to § 87(2)(b)

PO Castillo testified at the CCRB on February 25, 2020. He stated that on December 3, 2020, § 87(2)(b) entered the 32 Precinct stationhouse. PO Castillo’s assignment was the telephone switchboard operator. § 87(2)(b) asked PO Castillo, why he was not allowed at § 87(2)(b) PO Castillo told § 87(2)(b) (Board Review 7) that there was nothing he could do for him.

§ 87(2)(g)

- This is the first CCRB complaint of which § 87(2)(b) has been a party.
- PO Feliz has been a member of the service for two years and has no other CCRB complaints.
- PO Castillo has been a member of the service for thirteen year and has been a subject in five cases with six allegations, none of which were substantiated. § 87(2)(g)

- § 87(2)(b) declined to mediate his complaint.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
- § 87(2)(b) filed a Notice of Claim with the City of New York claiming his rights were violated and seeking 25,000.00 as redress. There is no 50H hearing scheduled (Board Review 25).

Reviewer: _____

Signature _____ Print Title & Name _____ Date _____

